

REMARKS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-3 are presently active; Claims 4-50 have been presently canceled without prejudice or disclaimer. Applicants reserve the right to file one or more continuation and/or divisional applications directed to Claims 4-50. No new matter has been added.

By way of summary, the Official Action presents the following issues: Claims 1-3 stand rejected under 35 U.S.C. § 112, second paragraph; and Claims 1-3 stand rejected under 35 U.S.C. § 103 as being unpatentable over Lerner (U.S. Patent Publication 2002/0120555, hereinafter "Lerner") in view of Pionzio (U.S. Patent Publication 2002/0029097, hereinafter "Pionzio").

Applicants thank the Examiner for the courtesy of the personal interview extended to the Applicants' representative on January 30, 2008. During the interview, the rejections noted in the outstanding Official Action were discussed.

Specifically, Applicants noted that the term "sensing" was well known in the art of instrumentation, however, in order to advance prosecution Applicants have adopted the terminology "collected". Additionally, it is pointed out that the art of record does not describe renewable power or collecting meteorological factors and developing a meteorological forecast for the purpose of committing to deliver, by contract, at least a portion of power from a renewable power generation facility at a predetermined time coinciding with the meteorological forecast. Comments presented during the interview are reiterated below.

REJECTIONS UNDER 35 U.S.C. § 112

The Official Action has rejected Claims 1-3 under 35 U.S.C. § 112, second paragraph as allegedly being indefinite. Applicants respectfully traverse the rejection.

At page 2 of the Official Action, the term “sensing” is identified as being indefinite. The Official Action takes the position that it is unclear to one of ordinary skill in the art what is meant by utilization of the term “sensing”. Although Applicants believe that the term “sensing” is sufficiently definite, Applicants have adopted the terminology suggested in the Official Action at page 2 for the purposes of advancing prosecution.

Accordingly, Applicants respectfully request that the rejection of Claims 1-3 under 35 U.S.C. § 112, second paragraph, be withdrawn.

REJECTIONS UNDER 35 U.S.C. § 103

The Official Action has rejected Claims 1-3 under 35 U.S.C. § 103 as being unpatentable over Lerner in view of Pionzio. The Official Action contends that Lerner describes all of the Applicants’ claimed features with the exception of “collecting and forecasting energy.”¹ However, the Official Action cites Pionzio as describing these more detailed features of the Applicants’ claims and states that it would have been obvious to one of ordinary skill in the art, at the time the advancements were made, to combine the cited references for arriving at the Applicants’ claims. Applicants respectfully traverse the rejection.

Applicants’ amended Claim 1 recites, *inter alia*, a method of translating meteorological forecast data to an operations data associated with providing electrical power produced from a renewable power generation facility to a power grid, including:

¹ Applicants note that “collecting and forecasting energy” does not appear in the Applicants’ claims.

collecting meteorological factors that affect an amount of electrical power generated by the renewable power generation facility;

developing a meteorological forecast from said meteorological factors collected;

committing to deliver, by contract, at least a portion of a unit of power from said renewable power generation facility at a predetermined time coinciding with the meteorological forecast; and

developing a trading position for said unit of power based on an uncertainty in said meteorological forecast.
(emphasis added)

Lerner describes an electronic marketplace for trading commodities. More specifically, as shown in Figure 2, a system (200) is provided which receives news feeds (202), price quote feeds (204) via a network system for linking commodity brokers and traders (206), freight providers (208), futures brokers (210), producers, exporters/importers (212), as well as financial service providers and institutions (214) and speculators or paper traders (216). In the Official Action, it is noted that Figure 4C allegedly describes developing a trading position based on an uncertainty in a forecast. Likewise, paragraph [0029] of Lerner is identified as describing that renewable energy is a commodity.²

Pionzio describes a method of controlling a wind turbine for electric power generation. An array processing unit (APU) is provided for controlling the turbine elements of the wind power system.³ The APU provides database management and reporting functions and collects data from network components at frequent intervals. In this way, the turbines of the electric power generation may be optimally controlled.

Conversely, in an exemplary embodiment of the Applicants' claimed advancements, a method of translating meteorological forecast data to an operations data associated with providing electrical power produced from a renewable power generation facility to a power

² See Official Action at page 3.

³ See Pionzio at paragraphs [0027]-[0028].

grid is provided. Meteorological factors that affect an amount of electrical generated by the renewable power generation facility are collected. A meteorological forecast is developed from the factors collected. At least a portion of the unit of power from the renewable power generation facility is committed for delivery by contract at a predetermined time which coincides with the meteorological forecast. A trading position is developed for the unit of power based on an uncertainty in the meteorological forecast.

As can be appreciated, Lerner does not describe the generation of renewable power, let alone the commitment to provide such power at a predetermined time as claimed. While the Official Action has cited paragraphs [0006] and [0029] of Lerner as allegedly describing committing to delivery at least a portion of a unit of power from a renewable power generation facility, this description merely mentions a traditional energy marketplace as outlined in the background section of Applicants' specification.

In stark contrast to the traditional energy commodity such as fossil fuel futures, pages 2-19 of the background section of the Applicants specification describes quite clearly that "renewable energy" as claimed is a completely different concept with respect to commodity trading. Indeed, prior to the Applicants' claimed advancements, renewable power could not be reliably traded in the manner suggested in the present application.⁴ Thus, it is clear that the Official Action has ignored the term "renewable" in examining the Applicants' claims. Yet, it is well established that each word of every claim must be given weight. See In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). Further, it is well established that while the PTO is to give claim language its broadest "reasonable" interpretation, this does not mean that the PTO can completely ignore the understanding that the artisan would have of the terminology "renewable energy" obtained in light of the specification so as to ascribe a completely different and unknown meaning thereto. See In re

⁴ See application at page 3.

Cortright, 165 F.3d 1353, 1358, 49 USPQ 2d 1464, 1467 (Fed. Cir. 1999). (“Although the PTO must give claims their broadest reasonable interpretation, this interpretation must be consistent with the one those skilled in the art would reach.”) and In re Okuzawa, 537 F.2d 545, 548, 190 USPQ 464, 466 (CCPA 1976) citing In re Royka, 490 F.2d 981, 984, 180 USPQ 580, 582-83 (CCPA 1974).

In addition to the clear deficiencies noted above with respect to the Lerner reference, the Official Action has additionally cited a secondary reference, namely, Pionzio, as allegedly describing additional features of the Applicants’ claims.

Applicants note that the Pionzio reference is directed toward optimizing a control of a wind turbine. Pionzio does not describe developing a meteorological forecast. Moreover, to the extent that Pionzio can even be considered analogous art, Applicants note that the combination of Pionzio and Lerner would simply provide a commodity trading marketplace in which the data useful in optimizing the operation of a specific wind turbine would be introduced. It is unclear how a combination of a historical airflow model of a wind turbine as described in Pionzio⁵, in combination with the Lerner reference, could reasonably be considered to be remotely related to the Applicants’ claimed advancements as recited in amended Claim 1.

Applicants’ amended Claim 2 recites more detailed aspects of the Applicants’ claimed advancements in which a financial risk is calculated in association with the commitment to deliver a unit of power at the predetermined time. While the Official Action cites paragraph [0114] of Lerner as describing this feature, it is unclear what if anything this portion of Lerner has to do with the claimed “predetermined time” which coincides with a meteorological forecast. Likewise, the cited references are deficient with respect to any

⁵ See Pionzio at paragraph 009

adjustment as recited in the claim which is based on an uncertainty in a reforecast made with an update in meteorological factors.

With respect to Claim 3, Applicants note that Claim 3 recites trading an option to offset an uncertainty in a meteorological reforecast. While the Official Action cites Figure 4C of Lerner as describing this more detailed feature, it is unclear where in the citation any reforecast is described as recited in Applicants' amended Claim 3.

Accordingly, as neither Lerner, nor Pionzio, either alone, or in combination, describe all of the Applicants claimed features as noted above, Applicants respectfully request that the rejection of Claims 1-3 under 35 U.S.C. § 103 be withdrawn.

CONCLUSION

Consequently, in view of the present amendment and in light of the above discussions, the outstanding grounds for rejection are believed to have been overcome. The application as amended herewith is believed to be in condition for formal allowance. An early and favorable action to that effect is respectfully requested.


Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413-2220
(OSMMN 06/04)



Bradley D. Lytle
Attorney of Record
Registration No. 40,073

Scott A. McKeown
Registration No. 42,866